

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R05-214]

PREAMBLE

- 1. Sections Affected**

R4-23-110	<u>Rulemaking Action</u>
R4-23-402	Amend
	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-1904(A)(1)
Implementing statute: A.R.S. § 32-1904(B)(5)
- 3. The effective date of the rules:**

August 6, 2005
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 3760, September 10, 2004
Notice of Proposed Rulemaking: 11 A.A.R. 436, January 21, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 4425 W. Olive Ave., Suite 140 Glendale, AZ 85302
Telephone:	(623) 463-2727, ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@cox.net
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

At the May 12, 2004, Board meeting, Board President Dennis McAllister formed a Patient Counseling Task Force. The task force was charged with reviewing the existing counseling rules and then to seek methods to improve and increase patient counseling by amending the rules. The amended rules contain the final recommendations presented by the task force at the August 11, 2004, Board meeting. R4-23-110 is amended by adding a new definition for "care-giver." R4-23-402 is amended with the recommendations of the task force. The amendments include: replacing the term "patient's agent" with "patient's care-giver;" reducing the number of specific circumstances that require counseling to occur from five to three; modifying the four required aspects of oral consultation; adding a new subsection requiring documentation that oral consultation did or did not occur and providing an exception for not providing oral consultation; minor changes to the subsection that specifies those aspects of patient consultation that may be provided to a patient through exercise of a pharmacist's professional judgment; and changes to the subsection that details what a pharmacist shall do if a patient refuses oral consultation. The amended rules include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of the rules benefit the public, pharmacists, pharmacy interns, and pharmacies by clearly establishing the standards for patient counseling by pharmacists and pharmacy interns under pharmacist supervision.

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7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact:**

The amended rules will impact the Board, pharmacists, pharmacy interns, and pharmacies. The amended rules' impact on the Board will be the usual rulemaking-related costs, which are minimal. The amended rules will not have an economic impact on pharmacists or pharmacy interns. The changes to the rules will increase the amount of documentation a pharmacist or pharmacy intern is required to maintain in relation to patient counseling. The amended rules will require documentation whether or not counseling occurs. The amended rules may increase pharmacy costs. Because documentation requires time, either pharmacist, pharmacy intern, or pharmacy technician time, a pharmacy might have increased costs to comply with the amended rule. The amended rules will actually decrease the number of times in a day a pharmacist must counsel, which may offset some of the minor increase in costs attributed to the additional documentation required for each prescription. The Board estimates that any increased costs for pharmacies to comply with the amended rules will be minimal. The amended rules have no economic impact on the public. The public benefits from a rule that ensures that a patient receives necessary and adequate counseling while reducing possible breaches in patient confidentiality.

The public, Board, pharmacists, pharmacy interns, and pharmacies benefit from rules that are clear, concise, and understandable. The amended rules benefit the public, the Board, and the pharmacy community by clearly establishing the standards for patient counseling by pharmacists and pharmacy interns under pharmacist supervision.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There are no substantive changes in the final rules from the proposed rules. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

11. **A summary of the comments made regarding the rule and the agency response to them:**

A public hearing was held on February 22, 2005. Janet Elliott representing The Arizona Community Pharmacy Committee attended the hearing to speak for the proposed rulemaking and provide a written statement from the committee expressing the committee's support of the proposed rulemaking. The Board thanked Ms. Elliott and the committee for their support.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

13. **Incorporations by reference and their location in the rules:**

None

14. **Was this rule previously made as an emergency rule?**

No.

15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section

R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to A.A.C. Title 4 Chapter 23:

“Active ingredient” No change

“Alternate physician” No change

“Approved course in pharmacy law” No change

“Approved Provider” means an individual, institution, organization, association, corporation, or agency that is approved by the ~~American Accreditation Council on Pharmaceutical for Pharmacy~~ Education (ACPE) in accordance with ACPE’s policy and procedures or by the Board as meeting criteria indicative of the ability to provide quality continuing education.

“Authentication of product history” No change

“AZPLEX” No change

“Batch” No change

“Beyond-use date” No change

“Biological safety cabinet” No change

“Care-giver” means a person who cares for someone who is sick or disabled or an adult who cares for an infant or child and includes a patient’s husband, wife, son, daughter, mother, father, sister, brother, legal guardian, nurse, or medical practitioner.

“Class 100 environment” No change

“Community pharmacy” No change

“Component” No change

“Compounding and dispensing counter” No change

“Computer system” No change

“Computer system audit” No change

“Contact hour” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dietary supplement” No change

“Dispensing pharmacist” No change

“Drug sample” No change

“Drug therapy management” No change

“Drug therapy management agreement” No change

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

“Limited-service correctional pharmacy” No change

“Limited-service long-term care pharmacy” No change

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Limited-service sterile pharmaceutical products pharmacy” No change

“Long-term care consultant pharmacist” No change

“Long-term care facility” or “LTCF” No change

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- "Lot" No change
- "Lot number" or "control number" No change
- "Materials approval unit" No change
- "Mediated instruction" No change
- "MPJE" No change
- "NABP" No change
- "NABPLEX" No change
- "NAPLEX" No change
- "Other designated personnel" No change
- "Outpatient" No change
- "Outpatient setting" No change
- "Patient profile" No change
- "Pharmaceutical patient care services" No change
- "Pharmaceutical product" No change
- "Pharmacy counter working area" No change
- "Pharmacy law continuing education" No change
- "Prepackaged drug" No change
- "Provider pharmacy" No change
- "Radiopharmaceutical" No change
- "Radiopharmaceutical quality assurance" No change
- "Radiopharmaceutical services" No change
- "Red C stamp" No change
- "Refill" means other than the original dispensing of the prescription order, dispensing a prescription order in the same quantity originally ordered or in multiples of the originally ordered quantity when specifically authorized by the prescriber, if the refill is authorized by the prescriber:
 - In the original prescription order:
 - By an electronically transmitted refill order that the pharmacist promptly documents and files; or
 - By an oral refill order that the pharmacist promptly documents and files.
- "Remodel" No change
- "Remote drug storage area" No change
- "Resident" No change
- "Responsible person" No change
- "Score transfer" No change
- "Sight-readable" No change
- "Single-drug audit" No change
- "Single-drug usage report" No change
- "Sterile pharmaceutical product" No change
- "Strength" No change
- "Supervision" No change
- "Supervisory physician" No change
- "Supplying" No change
- "Support personnel" No change
- "Transfill" No change
- "Wholesale distribution" No change
- "Wholesale distributor" No change

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

- A. No change
- B. Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's ~~agent~~ care-giver in an outpatient setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:
 - ~~1- The prescription medication has not been previously dispensed to the patient;~~
 - ~~2- A new prescription number is assigned to a previously dispensed prescription medication;~~
 - ~~3-1.~~ The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
 - ~~4-2.~~ The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 - ~~5-3.~~ The patient or patient's ~~agent~~ care-giver requests oral consultation.

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- C.** Oral consultation shall include:
- ~~The~~ Reviewing the name, strength, and dosage form strength of a prescription medication or name of a prescription-only device and the labeled indication of use for the prescription medication or prescription-only device;
 - ~~The~~ Reviewing the prescription's directions for use;
 - ~~The~~ Reviewing the route of administration; and
 - ~~Special instructions, precautions,~~ Providing oral information regarding special instructions and written information regarding side effects, procedure for missed doses, or storage requirements.
- D.** When, in the professional judgement of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
- Personally provides written information to the patient or patient's care-giver that summarizes the information that would normally be orally communicated;
 - Documents both the circumstance and reason for not providing oral consultation is documented by a method approved by the Board or its designee; and
 - Offers the patient or patient's care-giver the opportunity to communicate with a pharmacist, graduate intern, or pharmacy intern at a later time and provides a method for the patient or patient's care-giver to contact a pharmacist, graduate intern, or pharmacy intern at the pharmacy.
- ~~D.E.~~ The pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
- Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 - Techniques of self-monitoring drug therapy;
 - The duration of the drug therapy; and
 - Prescription refill information; ~~and~~
 - ~~Action to be taken if a dose is missed.~~
- ~~E.F.~~ Nothing in subsection (B) shall be construed as requiring requires a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's agent care-giver refuses the consultation. Using a method approved by the Board or its designee, a pharmacist, graduate intern, or pharmacy intern shall:
- Document that oral consultation is or is not provided; and
 - If oral consultation is not provided, document both the circumstance and reason that oral consultation is not provided.
- ~~1. Only a pharmacist, graduate intern, or pharmacy intern shall accept a refusal for consultation.~~
- ~~2. A pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, a refusal for consultation on the original prescription order or document by alternative methods approved by the Board or its designee.~~
- F.G.** When a prescription is delivered to the patient or patient's agent care-giver outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
- Approved use for the prescription medication;
 - Possible adverse reactions;
 - Drug-drug, food-drug, or disease-drug interactions;
 - Missed dose information; and
 - Telephone number of the dispensing pharmacy or another method approved by the Board or its designee that allows a patient or patient's care-giver to consult with a pharmacist.
- ~~G.H.~~ No change
- ~~H.I.~~ No change
- ~~I.J.~~ No change

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

[R05-219]

PREAMBLE

1. Sections Affected

R4-39-101
R4-39-103
R4-39-104

Rulemaking Action

Amend
Amend
Amend

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R4-39-105	Amend
R4-39-106	Amend
R4-39-107	Amend
R4-39-108	Repeal
R4-39-108	New Section
R4-39-110	Amend
Article 3	Amend
R4-39-301	Amend
R4-39-302	Amend
R4-39-303	Amend
R4-39-305	Amend
R4-39-308	Amend
R4-39-402	Amend
R4-39-404	New Section
R4-39-405	New Section
R4-39-406	New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-3003(A)(3)

Implementing statutes: A.R.S. §§ 32-3021, 32-3022, 32-3023, 32-3025, 32-3051, 32-3052, and 32-3058

3. The effective date of the rules:

August 6, 2005

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 10 A.A.R. 216, January 9, 2004

Notice of Proposed Rulemaking: 11 A.A.R. 350, January 14, 2005

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Teri Candelaria, Executive Director

Address: Arizona State Board for Private Postsecondary Education
1400 W. Washington, Room 260
Phoenix, AZ 85007

Telephone: (602) 542-5709

Fax: (602) 542-1253

6. An explanation of the rule, including the agency's reason for initiating the rule:

The rulemaking is authorized by the Board's general rulemaking authority contained in A.R.S. § 32-3003(A)(3). Specific rulemaking authority is contained in A.R.S. §§ 32-3021, 32-3022, 32-3023, 32-3025, 32-3051, 32-3052, and 32-3058.

The Board amended Article 1, Article 3, and Article 4 to address the issues identified in the five-year review report approved by the Governor's Regulatory Review Council on February 5, 2002, to conform to current rulemaking format and style requirements, and to improve the rules' clarity, conciseness, and understandability. In addition, rules are added to clarify or establish requirements for surety bonds, institutional insurance, financial statements, tuition refunds, financial assistance programs, and institutional closures. The rules better reflect current industry standards, are consistent with federal and state statutes and rules, better protect the public, and enhance regulatory oversight of private postsecondary educational institutions operating in Arizona.

Article 1:

- Definitions in R4-39-101 are amended, deleted, or added to correspond to amended or new sections in Article 1, Article 3, and Article 4.
- Licensing requirements in R4-39-103, R4-39-106, and R4-39-107 are amended to revise eligibility and application requirements for institutions that are accredited or are required to be accredited. Similarly, licensing requirements in R4-39-104 and R4-39-105 are amended to revise eligibility and application requirements for non-accredited vocational institutions. These licensing requirements better reflect current industry standards and enhance regulatory oversight.
- License renewal requirements currently found in R4-39-108 are removed and included as licensing requirements in R4-39-103, R4-39-105, and R4-39-107.
- To correspond to statutory changes and to better reflect industry practices, surety bond/cash deposit requirements, insurance requirements, and financial statement requirements are added under a new Section, R4-39-108.

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- R4-39-110 is amended to update and clarify requirements for continuation of licensure after a change of ownership.

Article 3:

- Non-accredited institutional requirements for catalogs in R4-39-301 and for management and staff qualifications in R4-39-303 are amended to better reflect current industry educational practices and enhance regulatory oversight.
- Requirements for non-accredited institutional facilities and equipment in R4-39-302 are amended to conform the rule text to current rulemaking format and style requirements.
- Requirements for non-accredited institutional student recruitment practices in R4-39-305 and for non-accredited institutional pricing and refund policies and practices are clarified to conform the rule text to current rulemaking format and style requirements as necessary and to enhance regulatory oversight.

Article 4:

- Requirements for the preservation of student records in R4-39-402 are amended to better reflect current industry educational practices and enhance regulatory oversight.
- Tuition refund, student loan, and financial aid requirements are clarified or established under new sections R4-39-404 and R4-39-405.
- New requirements are established in R4-39-406 for institutions that close or cease to operate a program in which a student is enrolled.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board did not review any study relevant to the rules.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The rulemaking directly impacts:

- 23 accredited degree-granting institutions,
- 4 non-accredited degree-granting institutions,
- 64 accredited vocational institutions,
- 74 non-accredited vocational institutions, and
- Over 200,000 individuals enrolled in private postsecondary educational institutions in Arizona.

Annual cost/revenues are designated as minimal when less than \$1,000.00, moderate when between \$1,000.00 and \$10,000.00, and substantial when greater than \$10,000.00. There will be no new or additional costs to the public.

The overall economic impact of the rulemaking on persons impacted is expected to be minimal to moderate, with the benefits of the rulemaking outweighing the costs. The retention of requirements and practices already in rule should have little or no direct impact. The impact of new requirements or changes in requirements that correspond to existing industry practices and standards should be mitigated to the extent that those affected have already incorporated these requirements and practices into their general operations. The elimination of requirements should also have a minimal impact. New requirements and changes in existing requirements designed to improve regulation and better protect the public should also have a minimal to moderate economic impact in most cases. Specifically:

1. The Board anticipates that changes in surety bond/cash deposit requirements and insurance requirements will impact less than 10% of currently licensed institutions, and that the economic impact should be minimal in most cases. Seven non-accredited vocational institutions that do not have surety bonds will be required to have a surety bond or equivalent security as a condition of license renewal. The annual cost to secure and maintain a surety bond of \$15,000 is estimated to be between \$350 and \$500. In addition, approximately 15 of the licensed institutions will be required to increase their insurance coverage from \$500,000 to \$1,000,000. The annual additional cost due to this requirement should also be minimal, at less than \$500 per year.
2. A new requirement that precludes the Board from granting a license to an applicant due to conviction of a felony or any crime related to the operation of an educational institution should have only minimal impact, because A.R.S. § 32-3051(2) already identifies such criminal behavior as grounds for disciplinary action and the Board already considers convictions of this nature when deciding whether to grant a license.
3. Requirements for tuition refunds should have no economic impact on the 87 currently licensed accredited institu-

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tions and no economic impact on the six currently licensed non-accredited institutions operating programs less than 100 clock hours in duration. These institutions all have refund policies that meet or exceed the new requirements.

Of the remaining 72 non-accredited institutions, about 20% will be required to recalculate their refund policies in order to add refund periods. Under certain circumstances, these institutions may be minimally to moderately impacted when issuing student refunds. The exact dollar amount of the impact cannot be accurately assessed because the refund amount is based upon the point at which the student withdraws. However, any annual increases in student refund costs could be offset through improved student retention practices.

Those affected and the general public will substantially benefit from updated and simplified rules that better reflect current industry standards, are consistent with federal and state statutes and rules, better protect the public, and enhance regulatory oversight of private postsecondary educational institutions operating in Arizona.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

No substantial changes have been made in the text of the adopted rules from that in the proposed rules. Grammatical, technical, and organizational changes suggested by the staff of the Governor's Regulatory Review Council were made. The changes do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

11. A summary of the comments made regarding the rule and the agency response to them:

The Board did not receive any comments regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

ARTICLE 1. DEFINITIONS, LICENSURE, REPORTING

Section

- | | |
|------------|--|
| R4-39-101. | Definitions |
| R4-39-103. | Requirements for Regular Licensure to Operate a Private, Accredited, Vocational or Degree-Granting a <u>Regular License to Operate a Private Accredited Vocational Institution or a Private Accredited Degree-granting Institution in Arizona</u> |
| R4-39-104. | Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited , a <u>Conditional License to Operate a New Private Non-accredited Vocational Institution in Arizona</u> |
| R4-39-105. | Requirements for Regular Licensure to Continue to Operate an Existing, Private, Non-Accredited , a <u>Regular License to Continue to Operate a Private Non-accredited Vocational Institution in Arizona</u> |
| R4-39-106. | Requirements for Conditional Licensure to Operate a New, Private, Non-Accredited , <u>Degree-Granting a Conditional License to Operate a New Private Non-accredited Degree-granting Institution in Arizona</u> |
| R4-39-107. | Requirements for Provisional Licensure to Operate an Existing, Private, Non-Accredited , <u>Degree-Granting a Provisional License to Continue to Operate a Private Non-accredited Degree-granting Institution in Arizona</u> |
| R4-39-108. | <u>License Renewals Surety Bond, Cash Deposit, or Equivalent Security Requirements; Insurance Requirements; Financial Statement Requirements</u> |
| R9-4-110. | Change of Ownership <u>or Control</u> |

ARTICLE 3. OPERATION OF PRIVATE NON-ACCREDITED INSTITUTIONS

Section

- R4-39-301. Catalog
R4-39-302. Facilities and Equipment
R4-39-303. ~~Control and Personnel Staff~~
R4-39-305. Recruitment
R4-39-308. ~~Pricing and Refund Policy~~ Tuition, Pricing, Refund Policies

ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS

Section

- R4-39-402. Preservation of Records
R4-39-404. Tuition Refund Policy
R4-39-405. Student Loans and Financial Aid
R4-39-406. Closure of an Institution or Cessation of a Program

ARTICLE 1. DEFINITIONS, LICENSURE, REPORTING

R4-39-101. Definitions

~~In this Chapter, unless the context otherwise requires:~~

1. ~~A “conditional license” means a license issued for one year only to:~~
 - a. ~~A new non-accredited vocational institution or program.~~
 - b. ~~A new non-accredited degree-granting institution pursuant to the provisions of R4-39-106.~~
2. ~~A “new” institution means one that has not previously operated in Arizona. However, if an applicant for an original license to grant degrees has not granted degrees and has only operated as a licensed vocational institution in Arizona, it shall be regarded as a new institution for purposes of obtaining a license to grant degrees.~~
3. ~~A “provisional” license to grant degrees may be issued to a non-accredited degree-granting institution upon expiration of the conditional license to grant degrees and upon compliance with the provisions of R4-39-107.~~
4. ~~“Regular” license means:~~
 - a. ~~The license which may be granted to a non-accredited vocational institution or program upon expiration of the conditional license to operate a vocational institution or program.~~
 - b. ~~The license which may be granted to an accredited vocational or degree-granting institution.~~

In addition to the definitions in A.R.S. § 32-3001, the following definitions apply in this Chapter unless the context otherwise requires:

1. “Accreditation” has the same meaning as “accredited” in A.R.S. § 32-3001.
2. “Board” means the Arizona State Board for Private Postsecondary Education.
3. “Conditional license” means a non-renewable one-year license issued by the Board to a new private non-accredited vocational institution or a new private non-accredited degree-granting institution.
4. “New,” as used in this Section and in R4-39-104 and R4-39-106 means a:
 - a. Private non-accredited vocational institution that has not previously been issued a license by the Board to operate as a private non-accredited vocational institution in this state, or
 - b. Private non-accredited degree-granting institution that has not previously been issued a license by the Board to operate as a private non-accredited degree-granting institution in this state.
5. “Person” has the meaning in A.R.S. § 1-215.
6. “Provisional license” means a renewable one-year license issued by the Board to a private non-accredited degree-granting institution.
7. “Regular license” means a renewable one-year license issued by the Board to a private accredited vocational institution, a private accredited degree-granting institution, or a private non-accredited vocational institution.
8. “Signature” means:
 - a. A handwritten or stamped representation of an individual’s name or a symbol intended to represent an individual’s name, or
 - b. An “electronic signature” as defined in A.R.S. § 44-7002.
9. “Signing” means the act of providing a signature.
10. “Staff” means an individual employed by or representing a private vocational institution or private degree-granting institution.
11. “Student fees” means charges for registration, admission, tuition financing, or loans incurred by a student or other funding source on behalf of the student.

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R4-39-103. Requirements for ~~Regular Licensure to Operate a Private, Accredited, Vocational or Degree-Granting a~~ Regular License to Operate a Private Accredited Vocational Institution or a Private Accredited Degree-granting Institution in Arizona

- ~~A.~~** A private, vocational, or degree-granting institution that is institutionally accredited or has each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a regular license before operating in Arizona.
- ~~B.~~** To be regularly licensed to operate, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall submit the following to the Board for verification, review, and administrative action:
- ~~1. A completed, verified license application;~~
 - ~~2. A letter from each recognized accrediting agency by whom the institution or its programs are accredited that confirms the current accredited status of the institution or its programs and is certified as true and correct by an authorized administrative official of the institution;~~
 - ~~3. A copy of the institution's current catalog, required by the institution's accrediting agency, certified as true and correct by an authorized administrative official of the institution;~~
 - ~~4. A copy of the institution's student enrollment agreement or equivalent documentation, required by the institution's accrediting agency; and~~
 - ~~5. Documents specified in R4-39-104(B)(5) through (B)(15).~~
- ~~C.~~** To continue to be regularly licensed, a private, accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and a private, accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3022(B), and both shall annually submit to the Board for verification, review and administrative action documents specified in subsections (B)(1) through (B)(3) and in R4-39-104(B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).
- ~~D.~~** In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall discipline an accredited, vocational, or degree-granting institution that is regularly licensed if the institution:
- ~~1. Fails to comply with applicable accreditation standards or applicable federal standards as determined by the Board;~~
 - ~~2. Loses its institutional or program accreditation;~~
 - ~~3. Fails to notify the Board in writing within 20 days of any change in any certificate of accreditation; or~~
 - ~~4. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.~~
- A.** A person shall not operate a private accredited vocational institution or a private accredited degree-granting institution without a regular license granted by the Board.
- B.** The Board shall not grant a regular license or renewal of a regular license to an applicant if:
1. Within 10 years before the date of filing an application packet required in subsection (D) or since the start date of the current licensure period, an individual with 20% or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsection (D) or since the start date of the current licensure period, a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or in any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- C.** The Board shall grant a regular license or renewal of a regular license to an applicant if:
1. The applicant provides the information required in subsection (D); and
 2. The information provided under subsection (D) demonstrates:
 - a. For a regular license to operate a private accredited vocational institution, compliance with A.R.S. § 32-3021(B)(1) through (9);
 - b. For a regular license to operate a private accredited degree-granting institution, compliance with A.R.S. § 32-3022(B);
 - c. The ability to provide educational services as represented to the public;
 - d. Institutional accreditation or accreditation of each program to be operated; and
 - e. Compliance with all accreditation standards established by each accrediting agency that accredits the applicant's programs or the institution through which the programs are operated.
- D.** An applicant for a regular license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2) through (D)(6), (D)(8) through (D)(15), and (D)(17);
 3. The name of each accrediting agency that accredits the applicant's programs or the institution through which the programs are operated;
 4. For each accrediting agency named in subsection (D)(3), documentation from the accrediting agency that confirms

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- the current accreditation status of the programs or the institution;
5. Attestation by the individual signing the application that the applicant complies and will continue to comply with all accreditation standards established by each accrediting agency named in subsection (D)(3);
 6. The name of each federal student financial aid program in which the applicant is eligible to participate;
 7. For each federal student financial aid program named in subsection (D)(6), documentation from the United States Department of Education demonstrating participation in the federal student financial aid program and showing the applicant's student default rate;
 8. Attestation by the individual signing the application that the applicant complies and will continue to comply with all United States Department of Education requirements governing federal student financial aid programs named in subsection (D)(6);
 9. A copy of the applicant's current catalog that meets the accreditation standards established by each accrediting agency named in subsection (D)(3); and
 10. A surety bond, cash deposit, or equivalent security if required under A.R.S. § 32-3023 and R4-39-108.
- E.** No later than 60 calendar days before the expiration date of a licensee's current regular license, an applicant for annual renewal of a regular license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201; and
 2. The information and documentation required in:
 - a. R4-39-104(D)(2), (D)(4), (D)(5), (D)(9), (D)(10), (D)(14), (D)(15), and (D)(17); and
 - b. Subsections (D)(3) through (D)(10).
- F.** A licensee shall:
1. Notify the Board in writing within 24 hours if the licensee:
 - a. Receives a new grant of accreditation issued by an accrediting agency other than an accrediting agency named under subsection (D)(3); or
 - b. Becomes eligible to participate in a federal student financial aid program other than a federal student financial aid program named under subsection (D)(6).
 2. Notify the Board in writing within 24 hours if the licensee ceases to be accredited by an accrediting agency named under subsection (D)(3);
 3. Notify the Board in writing within 24 hours if the licensee ceases to be eligible to participate in a federal student financial aid program named under subsection (D)(6); and
 4. Notify the Board in writing within 14 calendar days of:
 - a. A change in any grant of accreditation issued by an accrediting agency named under subsection (D)(3) or (F)(1)(a), or
 - b. A change in eligibility to participate in a federal student financial aid program named under subsection (D)(6) or (F)(1)(b).
- G.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- H.** In addition to the grounds for disciplinary action in A.R.S. §§ 32-3051, the Board shall discipline a licensee that:
1. Violates the requirements in subsection (F);
 2. Intentionally or negligently misrepresents any material information in documents or information presented to the Board.

R4-39-104. Requirements for ~~Conditional Licensure to Operate a New, Private, Non-Accredited,~~ a Conditional License to Operate a New Private Non-accredited Vocational Institution in Arizona

- A.** ~~A new, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating vocational programs in Arizona.~~
- B.** ~~To be conditionally licensed to operate vocational programs a new, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:~~
1. ~~A completed, verified license application;~~
 2. ~~A surety bond in the amount of \$15,000 on a form approved by the Board. A cash deposit in the amount of \$15,000 may be submitted instead of a surety bond. A receipt for the cash deposit from the state treasurer shall suffice as evidence of the deposit;~~
 3. ~~A copy of the institution's current catalog, required by R4-39-301, certified as true and correct by an authorized administrative official of the institution;~~
 4. ~~A copy of the institution's student enrollment agreement specified in R4-39-310(A)(1);~~
 5. ~~Proof of insurance, sufficient to protect the assets of the institution in the event of damage or a finding of liability;~~
 6. ~~Current annual financial statements, compiled or reviewed in accordance with standards established by the American Institute of Certified Public Accountants or audited in accordance with generally accepted auditing standards and prepared in accordance with generally accepted accounting principles. The financial statements shall include a balance~~

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sheet, statement of operations, statement of changes in financial position and appropriate footnotes with an accountant's report, prepared and signed by an independent certified or public accountant currently licensed by the Arizona State Board of Accountancy or, if applicable, the accountancy Board located in the state of the institution's corporate or home office. Additional financial information may be required by the Board;

7. ~~Course of study information on each program offered by the institution, including information on graduate employment opportunities and practitioner requirements;~~
 8. ~~A copy of each certificate or diploma awarded by the institution;~~
 9. ~~A copy of the institution's published student grievance procedure that provides details regarding the institutional complaint process and references the student's right to file a complaint with the Board;~~
 10. ~~A sample copy of every document and media presentation that is or is intended to be advertised or presented to potential students;~~
 11. ~~A resume for each faculty member, director, and owner;~~
 12. ~~Line drawings or photographs that describe in detail the facilities, and a list of equipment and materials of the institution;~~
 13. ~~A copy of the most recent fire department inspection report;~~
 14. ~~An agent license application for each person soliciting students, if applicable; and~~
 15. ~~Other information deemed necessary by the Board.~~
- C.** ~~Before issuing a conditional license to operate vocational programs to a new, private, non-accredited, vocational institution, Board staff or a Board-appointed, onsite verification team shall visit the institution and confer with the administrative officers, faculty, students, if applicable, and other individuals, and make examinations that are necessary to obtain an accurate reflection of the institution's financial responsibility, management capabilities, programs, facilities, and equipment. After the visit, Board staff or the onsite verification team shall prepare and submit to the Board a written report of its findings. The Board shall review and use the written report in determining whether to grant a conditional license to the institution.~~
- D.** ~~During its one year of conditional licensure, a new, private, non-accredited, vocational institution shall not use terms such as "licensed", "approved" or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time period, it shall use the term "conditional license."~~
- E.** ~~In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against a new, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.~~
- A.** A person shall not operate a new private non-accredited vocational institution without a conditional license granted by the Board.
- B.** The Board shall not grant a conditional license to an applicant if:
1. Within 10 years before the date of filing an application packet required in subsection (D), an individual with 20% or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsection (D), a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or in any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- C.** The Board shall grant a conditional license to an applicant if:
1. The applicant provides the information required in subsection (D); and
 2. The information provided under subsection (D) demonstrates:
 - a. Compliance with A.R.S. § 32-3021(B)(1) through (9); and
 - b. The ability to provide educational services as represented to the public.
- D.** An applicant for a conditional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. An application form provided by the Board containing:
 - a. The applicant's name, street address, mailing address, telephone number, facsimile number, e-mail address, and web site address, if applicable;
 - b. If the applicant has a headquarters in another state or jurisdiction, the headquarters' street address, mailing address, telephone number, facsimile number, and e-mail address;
 - c. Responses to questions regarding the distribution of ownership, business type, and legal structure;
 - d. As applicable, identification of:
 - i. All members of the board of directors or board of trustees,
 - ii. All persons with 20% or more ownership in the institution, and
 - iii. All individuals responsible for managing the institution in this state;
 - e. Responses to questions regarding whether a person identified in subsection (D)(2)(d) has ever applied for or been

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- issued a license to operate a vocational program, vocational institution, degree program, or degree-granting institution in this state or in any other state or jurisdiction;
- f. Responses to questions regarding the finances, federal or state tax liabilities, management capabilities, and criminal history of the persons identified under subsection (D)(2)(d)(ii);
 - g. Responses to questions regarding programs, student recruitment, student enrollment, student retention, student placement, and student financing;
 - h. Staffing information including:
 - i. Faculty member qualifications for each program to be operated;
 - ii. Total number of current administrative personnel and faculty members;
 - iii. If applicable, projected number of administrative personnel and faculty members at the end of the first licensure period;
 - iv. The names of all current administrative personnel and faculty members;
 - i. Attestation by the individual signing the application that the applicant will comply with all applicable requirements in A.R.S. Title 32, Chapter 30, and this Chapter;
 - j. Attestation by the individual signing the application that all information required as part of the application packet has been submitted and is true and accurate; and
 - k. The signature of an owner or an owner's legal representative and date of signature;
3. If applicable, a copy of the applicant's articles of incorporation, partnership or joint venture documents, or limited liability documents;
4. For each program to be operated, a form provided by the Board describing:
 - a. Program content, length, and delivery system information;
 - b. Program prerequisites and completion requirements;
 - c. Tuition and student fees;
 - d. Any required textbooks or program learning materials;
 - e. Any equipment or technology requirements or competencies;
 - f. As applicable:
 - i. Library resources;
 - ii. Clinical training, practica, externships, internships, or special features;
 - iii. Graduate employment opportunities; and
 - iv. Requirements for a graduate to practice the skill or occupation for which the program prepares the graduate;
5. A copy of the applicant's student enrollment agreement meeting the requirements in R4-39-401;
6. A copy of each type of certificate or diploma to be awarded;
7. A copy of the applicant's catalog meeting the requirements in R4-39-301;
8. A copy of each brochure, promotional document, or advertisement intended for students or potential students;
9. A copy of the applicant's published student grievance procedure that:
 - a. Requires that a student grievance be submitted in writing;
 - b. Provides the steps and time lines involved in the grievance procedure;
 - c. References the student's right under A.R.S. § 32-3052 to file a complaint with the Board; and
 - d. Lists the Board's address and telephone number.
10. An institutional organizational chart including staff names and position titles;
11. For each individual identified under subsection (D)(2)(d), a form provided by the Board describing the individual's professional and educational background;
12. For each faculty member named under subsection (D)(2)(h)(iv), a form provided by the Board describing the individual's professional and educational background;
13. For each location within the state from which the applicant will operate:
 - a. A form provided by the Board describing the facility;
 - b. Line drawings, floor plans, or photographs showing each story of the facility, the room layout, room usage, and each door, window, and exit; and
 - c. Documentation from the local jurisdiction of compliance with all applicable fire codes, local building codes, and zoning ordinances;
14. Documentation of insurance required under R4-39-108;
15. Financial statements or financial documentation required under R4-39-108;
16. A surety bond, cash deposit, or equivalent security as required under A.R.S. § 32-3023 and R4-39-108; and
17. Other information determined by the Board or the applicant to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- E.** Before granting a conditional license, the Board shall conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).
- E.** While conditionally licensed, a licensee:
 - 1. Shall not describe or refer to itself using the terms "licensed," "approved," or "accredited"; and

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2. May describe or refer to itself using the terms “conditionally licensed” or “conditional license.”

G. After granting a conditional license, the Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of a licensee’s place of business to determine continuing compliance with the requirements of this Article.

H. In addition to the grounds for disciplinary action in A.R.S. §§ 32-3051, the Board may discipline a licensee that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

R4-39-105. Requirements for ~~Regular Licensure to Continue to Operate an Existing, Private, Non-Accredited, a~~ Regular License to Continue to Operate a Private Non-accredited Vocational Institution in Arizona

A. Upon expiration of a conditional license obtained in compliance with R4-39-104, an existing, private, vocational institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a regular license to continue to operate non-accredited vocational programs in Arizona.

B. To be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:

1. A completed, verified license application;
2. A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and
3. Documents specified in R4-39-104(B)(3), (B)(5), (B)(6), (B)(9), (B)(11), and (B)(15).

C. Before issuing a regular license to an existing, private, non-accredited, vocational institution, the Board shall conduct an onsite verification as described in R4-39-104(C).

D. To continue to be regularly licensed, an existing, private, non-accredited, vocational institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsections (B)(1) through (B)(3).

E. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing, private, non-accredited, vocational institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

A. The Board shall not grant a regular license or renewal of a regular license to an applicant, if:

1. Since the start date of the current licensure period, an individual with 20% or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
2. Since the start date of the current licensure period, a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
3. The applicant provides false or misleading information on or with an application required by this Section.

B. The Board shall grant a regular license or renewal of a regular license to an applicant if:

1. The applicant provides the information required in subsection (C) or (D); and
2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3021(B)(1) through (9); and
 - b. The ability to provide educational services as represented to the public.

C. No later than 60 calendar days before the expiration date of a licensee’s conditional license, an applicant for a regular license shall submit to the Board an application packet including:

1. The filing fee required under R4-39-201; and
2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5), (D)(7), (D)(9), (D)(10), and (D)(14) through (D)(17).

D. No later than 60 calendar days before the expiration date of the applicant’s regular license, an applicant for renewal of a regular license shall submit to the Board an application packet including:

1. The filing fee required under R4-39-201; and
2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5), (D)(7), (D)(9), (D)(10), and (D)(14) through (D)(17).

E. The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant’s or a licensee’s place of business to determine compliance with the requirements of this Article.

F. In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

R4-39-106. Requirements for ~~Conditional Licensure to Operate a New, Private, Non-Accredited, Degree-Granting a~~ Conditional License to Operate a New Private Non-accredited Degree-granting Institution in Arizona

A. A new, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a conditional license before operating degree programs or granting degrees in Arizona.

B. To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting

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institution shall demonstrate its intent and ability to make reasonable and timely progress toward obtaining accreditation from an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and successful pursuit of the various stages of accreditation within the time periods established, by the accrediting agency and as determined by the Board.

- ~~C.~~ To be conditionally licensed to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:
 - 1. A completed, verified license application;
 - 2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:
 - a. A copy of the written commitment to apply for accreditation that the institution has submitted to each recognized accrediting agency to which the institution plans to apply for accreditation, certified as true and correct by an authorized administrative official of the institution; and
 - b. An explanation to the accreditation process and the timeline required to make reasonable and timely progress toward obtaining accreditation, for each recognized accrediting agency to which the institution plans to apply for accreditation; and
 - 3. Documents specified in R4-39-104(B)(2) through (B)(15).
- ~~D.~~ Before issuing a conditional license to operate degree programs or grant degrees to a new, private, non-accredited, degree-granting institution, the Board shall conduct an onsite verification as described in R4-39-104(C).
- ~~E.~~ During its one-year of conditional licensure to operate degree programs or grant degrees, a new, private, non-accredited, degree-granting institution shall not use terms such as "licensed", "approved", or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure during this time, it shall use the term "conditional license".
- ~~F.~~ In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against a new, private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.
- A. A person shall not operate a new private non-accredited degree-granting institution without a conditional license granted by the Board.
- B. The Board shall not grant a conditional license to an applicant, if:
 - 1. Within 10 years before the date of filing an application packet required in subsection (D), an individual with 20% or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 - 2. Within 10 years before the date of filing an application packet required in subsection (D), a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
 - 3. The applicant provides false or misleading information on or with an application required by this Section.
- C. The Board shall grant a conditional license to an applicant if:
 - 1. The applicant provides the information required in subsection (D); and
 - 2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3022(C); and
 - b. The ability to provide educational services as represented to the public.
- D. An applicant for a conditional license shall submit to the Board an application packet including:
 - 1. The filing fee required under R4-39-201;
 - 2. The information and documentation required in R4-39-104(D)(2) through (D)(17);
 - 3. The name of each accrediting agency to which the applicant will apply for accreditation of the applicant's programs or the institution through which the programs are operated;
 - 4. For each accrediting agency named under subsection (D)(3), attestation by the individual signing the application that the applicant has read and understands documentation published or provided by the accrediting agency that explains the accrediting agency's accreditation process, including eligibility requirements, application procedures, self-evaluation processes and requirements, accreditation criteria or standards, and accrediting team visits;
 - 5. A chronological timeline identifying the applicant's projected progress in gaining accreditation from each accrediting agency named under subsection (D)(3); and
 - 6. On a form provided by the Board, responses to questions regarding the applicant's ability to gain accreditation from each accrediting agency named under subsection (D)(3).
- E. A licensee shall:
 - 1. Notify the Board in writing within 24 hours if the licensee:
 - a. Is determined by an accrediting agency named under subsection (D)(3) to be ineligible to apply for accreditation with the accrediting agency;

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- b. Is precluded from initiating or continuing in the accreditation process by an accrediting agency named under subsection (D)(3); or
 - c. Is denied accreditation by an accrediting agency named under subsection (D)(3);
 - 2. Within five calendar days of receipt, submit to the Board a copy of any document from an accrediting agency named under subsection (D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency; and
 - 3. Within five calendar days of mailing or sending, submit to the Board a copy of any document mailed or sent by the licensee to an accrediting agency named under subsection (D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency.
- E. Before granting a conditional license, the Board shall conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).
- G. While conditionally licensed, a licensee:
 - 1. Shall not describe or refer to itself using the terms "licensed," "approved," or "accredited"; and
 - 2. May describe or refer to itself using the terms "conditionally licensed" or "conditional license."
- H. The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of a licensee's place of business to determine compliance with the requirements of this Article.
- I. In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that:
 - 1. Violates the requirements in subsection (E), or
 - 2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

R4-39-107. ~~Requirements for Provisional Licensure to Operate an Existing, Private, Non-Accredited, Degree-Granting a Provisional License to Continue to Operate a Private Non-accredited Degree-granting Institution in Arizona~~

- ~~A. Upon expiration of a conditional license obtained in compliance with R4-39-106, an existing, private, degree-granting institution that is not institutionally accredited and does not have each of its programs accredited with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation shall apply to the Board for a provisional license to continue to operate degree programs or grant degrees in Arizona.~~
- ~~B. To be provisionally licensed to operate degree programs or grant degrees, an existing, private, non-accredited, degree-granting institution shall demonstrate reasonable and timely progress toward obtaining accreditation with an accrediting agency recognized by the United States Department of Education or the Council for Higher Education Accreditation. "Reasonable and timely" means the continuous, diligent, and successful pursuit of the various stages of accreditation within the time periods established by the accrediting agency and as determined by the Board.~~
- ~~C. To be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall submit the following to the Board for verification, review, and administrative action:~~
 - ~~1. A completed, verified license application;~~
 - ~~2. Evidence that the institution is in compliance with subsection (B). Evidence of compliance includes:~~
 - ~~a. Proof that the institution has applied for accreditation with one or more recognized accrediting agencies;~~
 - ~~b. A report on the current status of the institution's progress toward accreditation, certified as true and correct by an authorized administrative official of the institution; and~~
 - ~~c. A letter from each recognized accrediting agency to which the institution has applied confirming the current status of the institution's progress toward accreditation;~~
 - ~~3. A valid surety bond or cash deposit, if required by A.R.S. § 32-3023(I); and~~
 - ~~4. Documents specified in R4-39-104(B)(3) through (B)(6), (B)(9) through (B)(11), and (B)(15).~~
- ~~D. To continue to be provisionally licensed, an existing, private, non-accredited, degree-granting institution shall demonstrate continued compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review, and administrative action documents specified in subsections (C)(1), (C)(2)(b), (C)(2)(c), (C)(3), and (C)(4). The Board shall deny provisional licensure to an existing private, non-accredited, degree-granting institution that is not proceeding through the accreditation process in a reasonable and timely manner as determined by the Board.~~
- ~~E. Before issuing a provisional license to an existing, private, non-accredited, degree-granting institution, the Board shall conduct an onsite verification as described in R4-39-104(C).~~
- ~~F. During the period of provisional licensure, an existing, private, non-accredited, degree-granting institution shall not use terms such as "licensed," "approved," or "accredited" in conjunction with the institution or the Board. If the institution wishes to refer to its licensure, it shall use the term "provisional license."~~
- ~~G. In addition to the grounds for disciplinary action described in A.R.S. § 32-3051, the Board shall take disciplinary action against an existing private, non-accredited, degree-granting institution that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.~~
- ~~A. The Board shall not grant a provisional license or renewal of a provisional license to an applicant if:~~
 - ~~1. Since the start date of the current licensure period, an individual with 20% or more ownership in the applicant institu-~~

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- tion has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
2. Since the start date of the current licensure period, a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- B.** The Board shall grant a provisional license or renewal of a provisional license to an applicant if:
1. The applicant provides the information required in subsection (C) or (D); and
 2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3022(C);
 - b. The ability to provide educational services as represented to the public; and
 - c. Progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3).
- C.** No later than 60 calendar days before the expiration date of a licensee's conditional license, an applicant for a provisional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5) through (D)(10), and (D)(14) through (D)(17);
 3. A chronological timeline identifying the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 4. On a form provided by the Board, responses to questions regarding the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3); and
 5. Copies of application documents submitted to an accrediting agency named under R4-39-106(D)(3), if applicable.
- D.** No later than 60 calendar days before the expiration date of a licensee's provisional license, an applicant for renewal of a provisional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5) through (D)(10), and (D)(14) through (D)(17);
 3. A chronological timeline identifying the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 4. On a form provided by the Board, responses to questions regarding the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 5. Copies of application documents submitted to an accrediting agency named under R4-39-106(D)(3), if applicable; and
 6. Documentation from each accrediting agency named under R4-39-106(D)(3) that demonstrates that the applicant is actively seeking accreditation.
- E.** A licensee shall:
1. Notify the Board in writing within 24 hours if the licensee:
 - a. Is determined by an accrediting agency named under R4-39-106(D)(3) to be ineligible to apply for accreditation with the accrediting agency;
 - b. Is precluded from initiating or continuing in the accreditation process by an accrediting agency named under R4-39-106(D)(3); or
 - c. Is denied accreditation by an accrediting agency named under R4-39-106(D)(3);
 2. Within five calendar days of receipt, submit to the Board a copy of any document from an accrediting agency named under R4-39-106(D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency; and
 3. Within five calendar days of mailing or sending, submit to the Board a copy of any document mailed or sent to an accrediting agency named under R4-39-106(D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency.
- F.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- G.** In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that:
1. Violates the requirements in subsection (E), or
 2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

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R4-39-108. License Renewals Surety Bond, Cash Deposit, or Equivalent Security Requirements; Insurance Requirements; Financial Statement Requirements

- A.** A private vocational or degree granting institution shall submit a complete, verified license renewal application to the Board no later than 45 days prior to the expiration of the license. The license renewal application shall include the following:
1. An accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
 2. An accredited private degree granting institution shall demonstrate compliance with A.R.S. § 32-3022(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-103(C), or
 3. A non-accredited private vocational institution shall demonstrate compliance with A.R.S. § 32-3021(B) and annually submit to the Board for verification, review and administrative action, documents specified in R4-39-105(D), or
 4. An existing non-accredited private degree granting institution shall demonstrate compliance with A.R.S. § 32-3021(B) and shall annually submit to the Board for verification, review and administrative action, documents specified in R4-39-107(D).
- B.** Failure to submit the annual license renewal application and required documents may result in disciplinary action. If Board staff determines there is cause to bring the question of license renewal to the Board, Board staff shall set the matter on the Board agenda for a public meeting. The Board may require, as a condition of license renewal, submission of additional reports or other relevant information and the personal appearance of representatives of the institution before the Board.
- A.** A person applying for a license and a person licensed under R4-39-104, R4-39-105, R4-39-106, R4-39-107, or R4-39-110(E) shall have a surety bond, cash deposit, or equivalent security as required pursuant to A.R.S. § 32-3023. The Board shall determine the dollar amount of the surety bond, cash deposit, or equivalent security pursuant to A.R.S. § 32-3023(C).
- B.** The Board may require that a person applying for a license or a person licensed under R4-39-103 or R4-39-110(D) have a surety bond, cash deposit, or equivalent security as required pursuant to A.R.S. § 32-3023. The Board shall determine whether a surety bond, cash deposit, or equivalent security is required and if so, the dollar amount of the surety bond, cash deposit, or equivalent security pursuant to A.R.S. § 32-3023(C).
- C.** A person applying for a license or a person licensed under this Article shall:
1. Have and maintain with an insurance company authorized to transact business in this state coverage that complies with R4-39-302(4) and:
 - a. A minimum single occurrence malpractice or professional liability coverage of \$1,000,000; and
 - b. A minimum single occurrence general liability coverage of \$1,000,000 for the operation of the institution; or
 2. Be self-insured for the amounts in subsection (C)(1).
- D.** A person applying for a license or renewal of a license shall submit with the license or renewal application:
1. Financial statements that are prepared and signed by an independent, certified public accountant currently licensed by the Arizona State Board of Accountancy or by the accountancy board in the state of the applicant's or licensee's headquarters;
 2. Financial statements that are prepared and compiled, reviewed, or audited in accordance with generally accepted accounting principals; and
 3. Additional financial information if required by the Board under subsection (E) or (F).
- E.** The Board shall require that a person applying for a license or renewal under this Article submit additional financial documentation if:
1. The financial statements are for a reporting period that ended more than six months before the date of license application; or
 2. The applicant has not previously operated in this state or any other state or jurisdiction.
- F.** The Board may require that a person applying for a license or renewal under this Article submit additional financial documentation based upon the applicant's responses to questions on a license application regarding the applicant's distribution of ownership, business type, and legal structure.

R4-39-110. Change of Ownership or Control

- A.** No later than 60 days after a change of ownership, a private vocational or degree granting institution shall submit an application for a supplemental license.
- B.** For an accredited private vocational or an accredited private degree granting institution, an application for a supplemental license for a change of ownership shall include the following:
1. A complete, verified application for a supplemental license; and
 2. Documents specified in R4-39-103(B)(2), (3), and (4) and R4-39-104(B)(5), (6), (9), (11), and (15).
- C.** For a non-accredited private vocational institution, an application for a supplemental license for a change of ownership shall include the following:
1. A complete, verified application for a supplemental license; and
 2. Documents specified in R4-39-105(B)(2) and (3).

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- ~~D.~~ For a non-accredited private degree-granting institution, an application for a supplemental license for a change of ownership shall include:
- ~~1. A complete, verified application for a supplemental license; and~~
 - ~~2. Documents specified in R4-39-107(C)(2) through (C)(4).~~
- ~~E.~~ The Board shall grant a supplemental license for a change of ownership to a private vocational institution or a private degree-granting institution if the private vocational institution or the private degree-granting institution demonstrates that the application for a supplemental license for a change of ownership submitted under subsection (B), (C), or (D) is in compliance with A.R.S. §§ 32-3021 through 32-3051.
- ~~F.~~ Ownership of an institution shall be considered changed if:
- ~~1. In the case of ownership by a sole proprietor, more than a 20% interest or a beneficial interest in an institution is sold or transferred;~~
 - ~~2. In the case of ownership by a partnership or a corporation, more than 20% of the stock, interest, or beneficial interest is sold or transferred; or~~
 - ~~3. If the Board of Directors, officers, shareholders or controlling influence changes to such an extent as to significantly alter the management and control of the institution.~~
- ~~G.~~ A private vocational or degree-granting institution shall file a written notice of a change of ownership with the Board no later than seven days after the change in ownership.
- ~~H.~~ Notwithstanding subsection (F), a private vocational institution or a private degree-granting institution shall notify the Board of any transfer of an ownership or beneficial interest of more than 10% but less than 20% in a private vocational or degree-granting institution within seven days. The notice shall include a resume of each new owner or beneficial interest holder.
- A. In this Section, "change of ownership or control" means:
1. For a privately held corporation whose control is vested in those who control the voting stock of the corporation, 50% or more of the voting stock changes within a five-year period;
 2. For a publicly traded corporation whose control is vested in the voting members of the board of directors:
 - a. Fifty percent or more of the voting members of the board of directors change within a 12-month period; or
 - b. The chief executive officer of the corporation changes;
 3. For a non-profit corporation whose control is vested in the voting members of the board of directors:
 - a. Fifty percent or more of the voting members of the board of directors change within a 12-month period; or
 - b. The chief executive officer of the corporation changes;
 4. For a limited partnership whose control is vested in a corporate general partner, if under subsections (A)(1), (A)(2), or (A)(3), the corporate general partner has a change of ownership or control;
 5. For a limited liability company whose control is vested in members who control a majority of the interest in the company, if 50% or more interest changes within a 12-month period; or
 6. For a sole proprietor, if 50% or more interest changes within a five-year period.
- B. In determining whether a change of ownership or control has occurred, the Board shall deem that a change of ownership or control has not occurred if the interest is transferred by operation of law or inheritance to a parent, grandparent, spouse, or child.
- C. A licensee shall:
1. No later than seven calendar days after change of ownership or control, notify the Board in writing of the change of ownership or control; and
 2. No later than seven calendar days after any change of interest or change of the voting members of the board of directors of more than 20% but less than 50%, notify the Board in writing of the change.
- D. No later than 60 calendar days after a change of ownership or control, a licensed private accredited institution shall submit to the Board a license application packet including:
1. The filing fee required under R4-39-201(E);
 2. Either:
 - a. Information and documentation specified in R4-39-103(D)(5), (D)(8), (D)(9) and (D)(10) and R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), (D)(14) and (D)(15); or
 - b. If required by an accrediting agency that accredits the licensee's programs or the institution through which the programs are operated, a copy of change of ownership documents submitted by the licensee to the accrediting agency;
 3. Attestation that the applicant will assume financial responsibility for the payment of all student tuition refunds for which the institution has an obligation; and
 4. Other information determined by the Board to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- E. No later than 60 calendar days after a change of ownership or control, a licensed private non-accredited institution shall submit to the Board a license application packet, including:
1. The filing fee required under R4-39-201(E);

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2. For a private non-accredited vocational institution, information and documentation specified in R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), and (D)(14) through (D)(16);
 3. For a private non-accredited degree-granting institution, information, documentation, and fees specified in R4-39-107(C)(4) and R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), and (D)(14) through (D)(16);
 4. Attestation that the applicant will assume financial responsibility for all student refunds for which the institution has a financial obligation; and
 5. Other information determined by the Board to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- F.** The Board shall not grant a license for a change of ownership or control to an applicant if:
1. Within 10 years before the date of filing an application packet required in subsections (D) or (E) or since the start date of the current licensure period, an individual with 20% or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsections (D) or (E) or since the start date of the current licensure period, a person with 20% or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in Arizona or in any state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- G.** The Board shall grant a license for a change of ownership or control to an applicant, if the applicant:
1. Demonstrates compliance with A.R.S. §§ 32-3021 through 32-3027, as applicable; and
 2. Meets the application requirements in subsection (D) or (E).
- H.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.

ARTICLE 3. OPERATION OF PRIVATE NON-ACCREDITED INSTITUTIONS

R4-39-301. Catalog

- A.** Catalogs shall include the following information:
1. Name and address of the institution and publication date of the catalog.
 2. Names and titles of the administrative officials of the institution who are duly authorized to act for it in all matters relating to state approval and licensing.
 3. For institutions with full-time students, a calendar for the institution showing vacation periods, holidays, and beginning and ending dates for each semester, quarter, term, or session observed by the institution.
 4. Policies and regulations regarding student attendance, including leave, absences, class cuts, make up work, tardiness, and causes for suspending or expelling a student for these reasons. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for these reasons.
 5. Enrollment prerequisites for each course offered.
 6. Policies and regulations of the institution regarding credit for previous education, training, work and life experience.
 7. Amount of tuition, estimated fees, and costs of books, supplies, tools, and instructional aids to be used and purchased by students.
 8. Policies and regulations regarding refunds of the unused portions of tuition, fees, materials and supplies.
 9. A topical outline of each program for which approval is requested, indicating a statement of purpose, objectives, subjects, units, skills, and jobs to be learned in the program, and the approximate number of clock, credit or semester hours to be spent by the student in each phase of the program.
 10. Policies and regulations regarding standards of progress required of the student by the institution. These policies shall define the grading system of the institution, the minimum grade average considered satisfactory for continued enrollment, and causes for suspending or expelling a student for unsatisfactory grades or progress. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory grades or progress.
 11. Policies and regulations regarding student conduct and causes for suspending or expelling a student for unsatisfactory conduct. These policies shall also contain a description of any probationary period and conditions for re-entrance for those students expelled for unsatisfactory conduct.
- B.** A copy of each new or revised catalog shall be promptly submitted to the Board upon publication.
- A.** A person operating a licensed private non-accredited institution shall ensure that the institution has a catalog that includes the following information:
1. The institution's name, street address, mailing address, telephone number, facsimile number, e-mail address, and web-site address if applicable;
 2. If the institution has a headquarters in another state or jurisdiction, the headquarters' street address, mailing address, telephone number, facsimile number, e-mail address, and web-site address;

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3. The effective date of the catalog;
 4. The names and titles of:
 - a. All members of any board of directors or board of trustees;
 - b. All individuals responsible for managing the institution in this state, and
 - c. All persons with 20% or more ownership in the institution;
 5. A list of all programs operated by the institution;
 6. For each program to be operated:
 - a. A topical outline, including a statement of purpose, objectives, subjects, units, skills, and jobs to be learned in the program, and the number of clock, credit, or semester hours to be spent by the student in each phase of the program;
 - b. Any program prerequisites and completion requirements;
 - c. Tuition and student fees;
 - d. Any required textbooks or program learning materials;
 - e. Any equipment or technology requirements or competencies;
 - f. Any library resources;
 - g. Any clinical training, practica, externships, internships, or special features;
 - h. Any graduate employment opportunities; and
 - i. Any requirements for a graduate to practice;
 7. Any allowable student tuition reductions, tuition discounts, tuition scholarships, and educational loans that comply with R4-39-308;
 8. Any available student payment schedules and financing options that comply with R4-39-308;
 9. Student eligibility requirements for tuition reductions, tuition discounts, tuition scholarships, educational loans, payment schedules, and financing options, if applicable;
 10. Institutional refund policies that comply with R4-39-308 and R4-39-404;
 11. Any student services provided by the institution;
 12. A description of each educational delivery system available, including classroom-based instruction, directed study, distance education, and on-line computer-based learning.
 13. For institutions operating on an academic calendar, identification of:
 - a. Start and end dates for each semester, quarter, term, or session offered; and
 - b. Vacation periods and holidays; and
 14. Policies and regulations governing:
 - a. Admission requirements or program registration;
 - b. Program or course cancellation;
 - c. Grading procedures or progress tracking;
 - d. Change in student status;
 - e. Student readmission;
 - f. Student probation, suspension, or expulsion;
 - g. Grade reports and transcripts; and
 - h. As applicable:
 - i. Student attendance; and
 - ii. Credit for previous education, training, work, or life experience.
- B.** A person operating a licensed private non-accredited institution shall make a catalog available to students and prospective students in a written or electronic format.
- C.** Within 10 calendar days from the date a licensed private non-accredited institution revises a catalog or publishes a new catalog, the licensed private non-accredited institution shall submit to the Board a written or electronic copy of the revised or new catalog.

R4-39-302. Facilities and Equipment

- A person operating a licensed private non-accredited ~~private vocational or degree-granting~~ institution shall ensure that the:
1. ~~The building~~ Building, classrooms, equipment, furniture, grounds, instructional devices, and other physical facilities of the institution are appropriate to achieve the educational objectives of the institution;
 2. ~~The physical~~ Physical facility and equipment meet all safety requirements and health standards of the city, county, state, ~~or any other~~ authority in which the facility is located;
 3. ~~The physical~~ Physical facility and equipment ~~shall~~ comply with local and state laws for planning, building, zoning, and fire codes;
 4. ~~Maintain in force all insurance necessary~~ Insurance required under R4-39-108 is adequate to protect the assets of the institution in the event of damage or a finding of liability; and
 5. ~~The Board is notified of a change of location as specified~~ required in R4-39-109.

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R4-39-303. Control and Personnel Staff

- ~~A. A non-accredited private vocational or degree-granting institution's administrator, director, owner, beneficial owner, and faculty shall be of good moral character and shall obey the statutes and regulations of the Board.~~
- ~~B. The Board shall not issue a license if an owner, beneficial owner, or other person having direct or indirect control over the program or institution has been convicted of a felony or misdemeanor of any state or federal law relating to education.~~
- ~~C. The Board shall not issue a license if an owner, beneficial owner, or other person having direct or indirect control over the program or instruction has committed any act considered grounds for disciplinary action.~~
- ~~D. The director or manager of the institution shall be responsible for the following:
 - 1. Developing curriculum capable of preparing students for an occupational objective, an academic credential, or a specific entry level job.
 - 2. Selecting faculty competent in the subject matter to be taught and possessing teaching technique necessary to implement the applicable curriculum.~~
- ~~E. Faculty shall meet the following minimum educational and experience requirements:
 - 1. A faculty member of a non-accredited private degree-granting institution shall possess at least the degree awarded to a graduate of the program. The degree must have been awarded by an institution accredited by an accrediting agency recognized by the U.S. Department of Education.
 - 2. A faculty member of a non-accredited private vocational institution shall demonstrate competency through education or experience in the assigned subject area. The faculty member shall submit a resume on a form provided by the Board. The accuracy of information submitted shall be verified by the institution's personnel and the Board.~~
- ~~F. A non-accredited private vocational or degree-granting institution shall ensure the faculty to student ratio is appropriate to meet the educational objective of the program.~~
- ~~G. A private non-accredited vocational or degree-granting institution shall:
 - 1. Notify the Board in writing of any termination or change of director, manager, or faculty member within 30 days of the last day of employment.
 - 2. Notify the Board in writing of any new director, manager, or faculty member within 30 days of hiring.~~
- A. A person operating a licensed private non-accredited institution shall ensure that:
 - 1. The institution has a local administrator designated to carry out the duties under subsection (B);
 - 2. Each staff member communicates information regarding the institution, the institution's programs, and the institution's educational services that is true and is as represented in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students;
 - 3. The institution has sufficient staff to provide instruction and educational services as represented in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students; and
 - 4. Instruction and services are provided to a student as represented in the institution's catalog, required under R4-39-301, and any brochures, promotional materials, or advertisements provided to the student.
- B. An administrator designated under subsection (A)(1) shall:
 - 1. Supervise the day-to-day operation of the institution;
 - 2. For each program to be operated by the institution, develop and implement a curriculum capable of preparing a student enrolled in the program for the program degree, the program credential, the program's occupational objective, or a specific entry-level job covered in the program; and
 - 3. Ensure that all faculty members meet the requirements in subsection (C) or (D).
- C. A person operating a licensed private non-accredited institution shall ensure that a faculty member for a private non-accredited vocational institution has at least:
 - 1. Two years of practical work experience in the subject the faculty member is teaching; and
 - 2. Postsecondary education in the subject the faculty member is teaching from an accredited institution or an institution licensed to operate as a postsecondary educational institution by the state in which the faculty member received the postsecondary education.
- D. A person operating a licensed private non-accredited institution shall ensure that a faculty member for a private non-accredited degree-granting institution has at least:
 - 1. Two years of practical work experience in the subject the faculty member is teaching; and
 - 2. A degree from an accredited institution equal to or exceeding the degree awarded to a graduate of the program in which the faculty member is teaching.
- E. A person operating a licensed private non-accredited institution shall ensure that:
 - 1. Within 10 calendar days from the date the institution's administrator resigns, is terminated, or is otherwise unable to fulfill all responsibilities established under subsection (B), the Board is notified in writing;
 - 2. Within 10 calendar days from the date the institution employs a new administrator, a completed form provided by the Board describing the individual's professional and educational background is submitted to the Board; and
 - 3. Within 10 calendar days from the date the institution employs a new faculty member, a completed form provided by the Board describing the individual's professional and educational background is submitted to the Board.

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R4-39-305. Recruitment

- ~~A. The non-accredited private vocational or degree-granting institution shall recruit in a professional and ethical manner.~~
- ~~B. The non-accredited private vocational or degree-granting institution shall be responsible for training admissions personnel. A sales agent shall not directly or indirectly act as a guidance counselor, advisor, or as any other position to disguise the sales function of the agent.~~
- ~~C. The non-accredited private vocational or degree-granting institution shall not use a loan, grant, scholarship, discount, and other such items as an inducement to enroll, which may result in an unfair or unethical trade practice. "Scholarship" as used in this rule means any form of assistance extended to a prospective student which, in effect, amounts to a reduction in tuition. The non-accredited private vocational or degree-granting institution may grant a tuition scholarship if rules about the scholarship are published by the institution and available to all students and prospective students.~~
- A. A person operating a licensed private non-accredited institution shall ensure that all information contained in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, and advertisements provided to or intended for students or potential students is true.
- B. During student recruitment or before a student signs an enrollment agreement, a licensed private non-accredited institution:
 - 1. May allow a student tuition reduction, tuition discount, tuition scholarship, or educational loan only as authorized under R4-39-308; and
 - 2. Shall not guarantee employment to a prospective student.
- C. A person operating a licensed private non-accredited institution shall ensure that a staff member responsible for student recruitment or student admission:
 - 1. Uses only those titles that accurately reflect the staff member's actual duties and responsibilities;
 - 2. Is not designated as a counselor or advisor; and
 - 3. Does not make final decisions regarding tuition, student fees, tuition reduction, tuition discounts, tuition scholarships, educational loans, payment schedules, financing options, or refund policies.

R4-39-308. Pricing and Refund Policy Tuition, Pricing, and Refund Policies

- ~~A. The non-accredited private vocational or degree-granting institution shall disclose an accurate price of a specific course or program of study in any contract to be signed by a prospective student. Prices for the same course or program of study shall be the same for every student, except for group arrangements or following a published notice of a price change.~~
- ~~B. The non-accredited private vocational or degree-granting institution shall not require a prospective student to make a non-refundable payment until the prospective student has been accepted for enrollment.~~
- ~~C. The non-accredited private vocational or degree-granting institution shall disclose the refund policy of the institution in any contract signed by a student or prospective student.~~
- ~~D. The institution shall fully disclose all charges and fees to a prospective student or his parent or guardian in writing.~~
- ~~E. The non-accredited private vocational or degree-granting institution shall disclose all scholarships and fee reductions in writing to a student or prospective student at the time of enrollment.~~
- A. A person operating a licensed private non-accredited institution may charge students enrolled in the same program different tuition and student fees, only:
 - 1. Following a published notice of a program price change to be effective on a specified date for all students enrolling in the program on or after the specified date;
 - 2. For students who have chosen to modify programs or services so that a tuition reduction is warranted;
 - 3. For students incurring additional charges or who are eligible for tuition reductions associated with payment schedules, financing options, or educational loans;
 - 4. For students meeting tuition discount eligibility requirements in subsection (B); and
 - 5. For students receiving tuition scholarships under subsection (C).
- B. A person operating a licensed private non-accredited institution that offers tuition discounts shall:
 - 1. Publish in the institution's catalog allowable tuition discounts and student eligibility requirements for allowable tuition discounts, including tuition discounts for students:
 - a. Enrolling as part of a group,
 - b. Who are similarly situated, or
 - c. Enrolling under the same program schedule or course schedule; and
 - 2. Make tuition discounts available to all students who meet eligibility requirements.
- C. A person operating a licensed private non-accredited institution that offers full or partial tuition scholarships shall:
 - 1. Publish in the institution's catalog available tuition scholarships and student eligibility requirements for available tuition scholarships, including terms, conditions, application procedures, deadline dates, basis for selection, range of award amounts, and aggregate award amounts; and
 - 2. Objectively evaluate all applicants for tuition scholarships, and award tuition scholarships only to students who meet eligibility requirements.
- D. A person operating a licensed private non-accredited institution that offers full or partial educational loans shall:
 - 1. Publish in the institution's catalog available full or partial educational loans and student eligibility requirements for

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- available full or partial educational loans, including terms, conditions, application procedures, deadline dates, range of loan amounts, aggregate loan amounts, interest rates, and loan repayment requirements;
2. Make the full or partial educational loans available to all students who meet eligibility requirements, and
 3. Offer and administer the full or partial educational loans as required under R4-39-406.
- E.** A person operating a licensed private non-accredited institution that offers payment schedules or financing options shall:
1. Publish in the institution's catalog payment schedules and financing options and student eligibility requirements for payment schedules and financing options, including terms and conditions, application procedures, interest rates, and monthly payments; and
 2. Make the payment schedules and financing options available to all students who meet eligibility requirements.
- F.** A person operating a licensed private non-accredited institution:
1. Shall not require a prospective student to make a non-refundable payment until the prospective student signs an enrollment agreement and is accepted for enrollment, and
 2. Shall ensure that a prospective student understands the prospective student's rights under R4-39-404.
- G.** A person operating a licensed private non-accredited institution shall have a refund policy that:
1. Is applicable to all students, and
 2. Meets the requirements in R4-39-404.
- H.** A person operating a licensed private non-accredited institution shall ensure that all student tuition, student fees, tuition reductions, tuition discounts, tuition scholarships, educational loans, payment schedules, financing options, and refund policies applicable to a student are:
1. Fully disclosed in writing on a student's enrollment agreement or applicable financial documents;
 2. Consistent with information in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students; and
 3. Authorized pursuant to this Section.
- I.** A person operating a licensed private non-accredited institution shall:
1. Charge a student tuition and student fees as identified in writing on a student's enrollment agreement or applicable financial documents;
 2. Collect tuition and student fees from a student according to a payment schedule or financing option identified in writing on a student's enrollment agreement or applicable financial documents; and
 3. Refund tuition and student fees charged to a student according to the refund policy identified in writing on a student's enrollment agreement or applicable financial documents.

ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS

R4-39-402. Preservation of Records

~~When an institution or program which is licensed by this Board ceases operation, whether voluntarily or involuntarily, all educational records, or legible true copies of all educational records if originals are unavailable, shall be filed with the Board within 60 days of ceasing educational operations.~~

No more than 15 calendar days after a licensee ceases operation, the licensee shall submit to the Board legible copies of all student records required in R4-39-401.

R4-39-404. Tuition Refund Policy

- A.** A licensee shall allow a student or prospective student to cancel an enrollment agreement with the licensee if the student or prospective student submits a written notice of cancellation to the licensee within three days, excluding Saturday, Sunday, and state and federal holidays, of signing the enrollment agreement.
- B.** No later than thirty calendar days after a licensee receives a written notice of cancellation described in subsection (A), the licensee shall provide to the student or to the person who paid the student's tuition and fees a refund of 100% of all student fees and tuition paid for the student.
- C.** A person operating a licensed private accredited institution shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the institution catalog or enrollment agreement;
 2. Are applicable to all students; and
 3. Comply with:
 - a. Accreditation standards established by each accrediting agency named under R4-39-103(D)(3) or (F)(1)(a); and
 - b. United States Department of Education requirements governing each federal student financial aid program named under R4-39-103(D)(6) or (F)(1)(b).
- D.** A person operating a licensed private non-accredited institution shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the institution catalog or enrollment agreement;
 2. Are applicable to all students;

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3. Establish time periods for each program that:
 - a. Have a prescribed student tuition obligation and tuition refund calculation; and
 - b. Do not exceed the full length of the program or one calendar year, whichever is less;
4. Allow an institution to retain an administrative fee or registration fee not to exceed \$200.00 if the fee is published in the institution catalog or contained in the enrollment agreement;
5. Provide for the following refunds for a student who withdraws from or is terminated by an institution:
 - a. Before beginning classes in a time period, a refund of 100% of the tuition charges for the time period;
 - b. If 10% or less of the time period has expired, a refund of at least 90% of the tuition charges for the time period;
 - c. If more than 10% but less than or equal to 20% of the time period has expired, a refund of at least 80% of the tuition charges for the time period;
 - d. If more than 20% but less than or equal to 30% of the time period has expired, a refund of at least 70% of the tuition charges for the time period;
 - e. If more than 30% but less than or equal to 40% of the time period has expired, a refund of at least 60% of the tuition charges for the time period;
 - f. If more than 40% but less than or equal to 50% of the time period has expired, a refund of at least 50% of the tuition charges for the time period; and
 - g. If more than 50% of the time period has expired, no refund or a refund in an amount determined by the institution.
- E. When calculating refunds under subsection (D)(5), an institution shall:
 1. Use the last date of attendance as the date of withdrawal or termination;
 2. Determine that a student has withdrawn from an institution if the student has not attended any class for 30 consecutive scheduled class days; and
 3. Base the percentage of the time period expired on the time elapsed in the time period or on the number of semester, quarter, trimester, or clock hours completed in the time period.
- F. A program is exempt from subsection (D)(5) if the program:
 1. Is less than 100 clock hours,
 2. Has a total cost of less than \$1000, and
 3. Is provided by a private non-accredited vocational institution or a private non-accredited degree-granting institution.

R4-39-405. Student Loans and Financial Aid

- A. In this Section, an "academic year" means at least 30 weeks of instruction.
- B. A licensed private institution that receives, on behalf of a student, student loan or financial aid funds provided by a federal, state, or local government or from a federal student financial assistance program governed by Title IV of the Higher Education Act of 1965, 20 USC 1070 et seq. as amended, shall collect and disburse the monies in the manner prescribed by the applicable federal, state, or local regulations.
- C. A licensed private non-accredited institution that receives, on behalf of a student, student loan or financial aid funds provided by a private entity including but not limited to a bank, financing company, credit card company, or other lending source shall ensure that the monies are collected and disbursed in the following manner:
 1. Amounts equal to or less than \$5,000 may be disbursed as a single disbursement, regardless of program length.
 2. Amounts greater than \$5,000 shall:
 - a. Be disbursed in two or more equal disbursements; and
 - b. Have the second disbursement occur after the midpoint of the academic year for clock hour institutions or after the beginning of the second semester, quarter, trimester, or other term for term-based institutions.

R4-39-406. Closure of an Institution or Cessation of a Program

- A. At least 60 calendar days before a licensed institution closes, ceases to operate a program in which a student is enrolled, or makes an alternative program available to a student enrolled in a program that the institution will cease to operate, the licensed institution shall provide written notice of the closure, cessation of the program, or alternative program to:
 1. Each enrolled student in the program that the institution will cease to operate, and
 2. The Board.
- B. Except as provided in subsections (C) and (D), no later than 30 calendar days after a licensed institution closes or ceases to operate a program in which a student is enrolled, the licensed institution shall provide a refund of 100% of all student fees and tuition paid by a student or other funding source on behalf of the student.
- C. The refund requirement in subsection (B) does not apply if a student enrolled in a licensed institution that closes or in a program that the licensed institution ceases to operate chooses in writing to waive the refund because the student has received training or academic credit that is transferable to another institution.
- D. The refund requirement in subsection (B) does not apply if a licensed institution that ceases to operate a program in which a student is enrolled provides the student an alternative program that is equivalent to the program no longer operated, as determined by the Board, in:
 1. Program content;

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2. Program length and schedule;
 3. Tuition, student fees, payment schedules, and financing options;
 4. Accreditation status, if applicable;
 5. Award of credentials;
 6. Instruction and equipment;
 7. Placement assistance and student services, if applicable; and
 8. Facilities.
- E.** This Section applies to a licensed institution regardless of whether the closure or the cessation of a program is the fault of the licensed institution.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES**

[R05-213]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R9-6-701 | Amend |
| R9-6-702 | Amend |
| R9-6-704 | Amend |
| R9-6-706 | Amend |
| Table 1 | Amend |
| Table 2 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)
Implementing statutes: A.R.S. §§ 15-872, 15-873, 36-136(H)(1), and 36-672
- 3. The effective date of the rules:**
June 7, 2005

The Department is requesting an immediate effective date pursuant to A.R.S. § 41-1032. An immediate effective date will preserve the public peace, health, and safety and provide a benefit to the public, especially children entering or currently attending a child care or school, and no penalty is associated with a violation of the rule. A.R.S. § 36-672 requires the Department to adopt rules prescribing required immunizations for school attendance, the approved means of immunization and indicated reinforcing for diseases and identifying types of health agencies and health care providers that may sign a laboratory evidence of immunity. A.R.S. § 36-883 requires the Department to prescribe reasonable rules regarding the health, safety, and well-being of the children to be cared for in a child care facility. The addition of the varicella vaccine (VAR) to the list of required immunizations will protect children entering or currently attending a child care or school from this highly contagious disease.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 3021, July 30, 2004
Notice of Proposed Rulemaking: 11 A.A.R. 748, February 18, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Andie Denious, M.S., R.N.
Manager, Immunization Services

Address: Arizona Department of Health Services
Arizona Immunization Program Office
150 N. 18th Ave., Suite 120
Phoenix, AZ 85007-3233

Telephone: (602) 364-3626
Fax: (602) 364-3285
E-mail: denioue@azdhs.gov
Or

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Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
1740 W. Adams St., Room 202
Phoenix, AZ 85007-3233
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

6. An explanation of the rule, including the agency's reason for initiating the rule:

The purpose of this rulemaking is to add the varicella (chickenpox) vaccine (VAR) to the list of required immunizations for child care or school entry. The Department is also making changes to the Article to provide for the additional vaccine requirement and clarify the rules. The rules for required immunizations for child care or school entry are in Title 9, Chapter 6, Article 7 of the *Arizona Administrative Code*. The Department is amending the definitions in R9-6-701 to reflect the changes made to the Article. R9-6-702 and Tables 1 and 2 will be amended to provide for the VAR requirement. In R9-6-704, the Department is amending the proof of immunity requirements for an immunization record to conform to the industry standard that places emphasis on when the immunization is received and not when the child is born. Therefore, an immunization record for an immunization received after the amended rules become effective will have to conform to the industry standard but an immunization received before the amended rules become effective will be allowed to remain as documented under the current rule.

The Department is also adding to the list of those individuals who may sign an electronic version of a child's immunization record. R9-6-706 will be amended to provide exemptions for the VAR requirement. The amended rules will conform to current statutory authority, rulemaking format and style requirements, industry practice, and departmental policy.

Currently, VAR is given on a voluntary basis. In 1996, the Centers for Disease Control and Prevention (CDC) has recommended that VAR be added to the list of vaccinations required for child care or school entry. Since 1996, 44 states have made the VAR a requirement for child care or school entry. Arizona is one of the remaining states that has not made the VAR a requirement for child care or school entry. The Arizona Immunization Program Office (AIPO) manages the federal Vaccines for Children Program (VFC) for the state of Arizona. Through the VFC, the Department provides free vaccines to VFC-eligible children. VFC-eligible children include children enrolled in the Arizona Health Care Cost Containment System (AHCCS), uninsured children, Native American or Alaskan native children, and some underinsured children. VFC children compose approximately 55% of the number of children in Arizona between birth and age 18.

The Department plans to phase in the VAR requirement in an incremental implementation process. During the first year of implementation, three grades will be required to have received the VAR before entry into a child care or school. For each year after implementation, two more grades will be required to have received the VAR before entry into a child care or school. Through this incremental implementation process, the Department intends to have all children entering child care or school to be have received the VAR by September 1, 2011.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study for this rulemaking.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

This economic, small business, and consumer impact statement analyzes the costs and benefits of adding VAR to the list of required immunizations for child care or school entry for the following parties: local county health departments, the Department of Education, the federal Vaccines for Children (VFC) program, the "317" federal funding program, private health care physicians and clinics, vaccine manufacturers, health insurance companies, child care facilities, schools, children entering child care or school, parents of a child entering child care or school, the public, and the Department.

The cost of each dose of VAR is approximately \$48.00. For the first year of implementation, the Department estimates an additional 78,000 doses of VAR will be needed to vaccinate those children who are susceptible to the disease. The number of doses needed each year as additional grades are added to the requirement should decrease since the number of susceptible children will be decreasing.

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The estimated cost to local county health departments is minimal to none. The local county health departments are already immunizing VFC-eligible children with VAR.

The estimated cost to the Arizona Department of Education (ADOE) is minimal to moderate. ADOE will incur costs for school nurses spending additional time reporting compliance with the new requirement and if the nurses are already providing VAR immunizations, the cost of the additional doses of VAR due to the new VAR requirement.

The estimated cost to the federal government is moderate to substantial with the federal VFC and “317” programs bearing the cost of providing funding for the VAR doses for the new VAR requirement.

The Department will incur substantial cost for purchasing the VAR for the majority of underinsured children who receive immunizations.

A small business, such as a private health care provider, will incur a minimal to moderate cost for additional supplies and staff time needed for the increase in the number of VAR immunizations administered to the children entering child care or school. The actual cost to a private health care provider will depend on the number of children requesting a VAR dose.

AHCCCS contracted health plans will incur a minimal to moderate cost to pay the contracted physicians for the administration of VAR to AHCCCS covered children.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES**

ARTICLE 7. VACCINE-PREVENTABLE DISEASES

Section

R9-6-701.	Definitions
R9-6-702.	Required Immunizations for Child Care or School Entry
R9-6-704.	Standards for Documentary Proof of Immunity
R9-6-706.	Exemptions to <u>from</u> Immunizations
Table 1.	Immunization Requirements for Child Care or School Entry
Table 2.	Catch-up Immunization Schedule for Child Care or School Entry

ARTICLE 7. VACCINE-PREVENTABLE DISEASES

R9-6-701. Definitions

In this Article, unless otherwise specified:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change

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8. No change
 - a. No change
 - b. No change
9. No change
 - a. No change
 - b. No change
10. No change
11. No change
12. No change
13. No change
 - a. Day of the act; or event; from which a designated period of time begins to run, and
 - b. No change
14. ~~"DtaP"~~ "DTaP" means diphtheria, tetanus, and acellular pertussis vaccine.
15. No change
16. No change
17. No change
18. ~~"Guardian" means an individual appointed by a court of competent jurisdiction to care for a child or the child's property.~~
- 19-18. ~~"Head start program" means a federally funded program administered under 42 U.S.C. 9831~~ et seq.
- 20-19. No change
- 21-20. No change
- 22-21. No change
- 23-22. No change
- 24-23. No change
- 25-24. No change
- 26-25. ~~"IRMS number" means a numeric identifier that the Department issues to a person~~ whose information is stored in ASIIS.
- 27-26. No change
- 28-27. No change
- 29-28. No change
- 30-29. No change
- 31-30. No change
- 32-31. No change
- 33-32. No change
- 34-33. No change
- 35-34. No change
36. ~~"Parent" means a biological or legally adoptive mother or father of a child.~~
37. ~~"Person in loco parentis" means an individual acting in the place of a parent or guardian and exercising the duties, rights, or responsibilities of a parent or guardian.~~
- 38-35. No change
- 39-36. No change
37. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
- 40-38. No change
- 41-39. No change
- 42-40. No change
- 43-41. ~~"Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.~~
- 44-42. ~~"Responsible person" means a parent, guardian, or person in loco parentis to a child~~ has the same meaning as "parent" in R9-5-101.
- 45-43. No change
- 46-44. No change
- 47-45. No change
- 48-46. No change
47. "Temporary" means lasting for a limited time.
- 49-48. No change
- 50-49. No change
- 51-50. No change
- 52-51. No change
52. "VAR" means varicella vaccine.
53. No change

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- 54. No change
- 55. No change
- 56. No change

R9-6-702. Required Immunizations for Child Care or School Entry

A. Except as provided in R9-6-706, ~~a~~ the school administrator or child care administrator shall:

- 1. No change
 - a. No change
 - b. No change
 - c. Hepatitis A, for a child ~~2~~ two through ~~5~~ five years of age in child care in Maricopa County;
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. Rubella (German Measles); ~~and~~
 - j. *Haemophilus influenzae* type b; and
 - k. Varicella; and
- 2. No change
 - a. No change
 - b. No change

B. No change

- 1. No change
 - a. By September 1, 2002 for a child attending kindergarten through ~~4th~~ fourth grade or ~~7th~~ seventh grade through ~~9th~~ ninth grade;
 - b. By September 1, 2003 for a child attending kindergarten through ~~5th~~ fifth grade or ~~7th~~ seventh grade through ~~10th~~ tenth grade;
 - c. No change
 - d. No change
- 2. No change

C. No change

- 1. No change
- 2. No change

D. Unless exempt according to R9-6-706, a child who has not received the VAR specified in Table 1 or Table 2 shall:

- 1. Receive the VAR dose according to Table 2 and the following:
 - a. By September 1, 2005, for a child attending kindergarten, first grade, or seventh grade;
 - b. By September 1, 2006, for a child attending kindergarten through second grade, seventh grade, or eighth grade;
 - c. By September 1, 2007, for a child attending kindergarten through third grade, or seventh grade through ninth grade;
 - d. By September 1, 2008, for a child attending kindergarten through fourth grade, or seventh grade through tenth grade;
 - e. By September 1, 2009, for a child attending kindergarten through fifth grade, or seventh grade through 11th grade; and
 - f. By September 1, 2010, for a child attending kindergarten through 12th grade; and
- 2. Be excluded from school entry by a school administrator until the requirements in Table 2 are met.

~~D-E.~~ No change

- 1. No change
- 2. Suspend compliance with subsections (A), (B), ~~and~~ (C), and (D); and
- 3. No change
 - a. No change
 - b. Of the time by which an individual is required to comply with subsections (A), (B), ~~and~~ (C), and (D).

E-F. The Department shall notify each school and child care in this state that the Department no longer requires compliance with subsections (A), (B), ~~and~~ (C), and (D) for a disease listed in subsection (A)(1) if:

- 1. No change
 - a. No change
 - b. No change
- 2. No change

R9-6-704. Standards for Documentary Proof of Immunity

A. An individual may establish proof of a child's immunity to a disease listed in R9-6-702(A)(1) by one of the following:

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1. No change
 - a. ~~A~~ The child's name;
 - b. No change
 - c. No change
 - d. The month and year of each immunization, other than MMR, for a child ~~born~~ who received an immunization before January 1, 2003;
 - e. The month, day, and year of MMR immunization for a child ~~born~~ who received an immunization before January 1, 2003;
 - f. The month, day, and year of each immunization for a child ~~born~~ who received an immunization on or after January 1, 2003; and
 - g. No change
2. No change
3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. The month and year of each immunization, other than MMR, for a child ~~born~~ who received an immunization before January 1, 2003;
 - g. The month, day, and year of MMR immunization for a child ~~born~~ who received an immunization before January 1, 2003; and
 - h. The month, day, and year of each immunization for a child ~~born~~ who received an immunization on or after January 1, 2003;
4. No change
5. An electronic version of the child's immunization record containing the information in subsection (A)(1)(a) through (f) generated by an immunization registry, and signed and dated by any of the following:
 - a. No change
 - b. No change
 - c. No change
 - d. A WIC administrator, ~~or~~
 - e. An immunization registry administrator or immunization registry administrator's designee; or
 - f. A physician, physician's designee, practical nurse, or registered nurse;
6. An electronic version of the child's immunization record generated by a school, signed and dated by the school administrator or the school administrator's designee, and containing the information in subsection (A)(1)(a) through (f); or
7. No change
- B. A physician, the physician's designee, practical nurse, or a registered nurse ~~practitioner~~ may sign a statement of immunity stating that a child is immune to a disease, but shall not sign a statement of immunity to measles or rubella without obtaining serologic evidence of immunity.

R9-6-706. Exemptions ~~to~~ from Immunizations

- A. A child who has reached a ~~5th~~ fifth birthday is exempt from the Hib immunization requirement.
- B. A child who has reached a ~~7th~~ seventh birthday is exempt from the pertussis immunization requirement.
- C. A child:
 1. Until September 1, 2011, is exempt from the VAR immunization requirement if the child's responsible person states, verbally or in writing, that the child has had varicella; and
 2. After September 1, 2011, is not exempt from the VAR immunization requirement unless the child provides laboratory evidence of immunity to varicella.
- ~~C.D.~~ No change
- ~~D.E.~~ A child attending a school, who submits documentary proof of exemption from immunization for personal beliefs that contains the information in A.R.S. § 15-873(A)(1), is exempt from the immunization requirements in this Article. For a child attending a school, a parent or guardian shall submit to the school a written statement of exemption from immunization for personal beliefs as required in A.R.S. § 15-873(A)(1) or written certification of medical exemption as required in A.R.S. § 15-873(A)(2) on a form provided by the Department that contains:
 1. The child's name;
 2. The child's date of birth;
 3. The type of exemption requested;
 4. The immunizations from which the parent or guardian is requesting an exemption;
 5. Whether the medical exemption is permanent or temporary, if applicable;

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6. The date the medical exemption terminates, if applicable;
 7. The parent or guardian's signature and the date signed; and
 8. The physician's signature and the date signed, if applicable.
- E.** ~~A child attending child care, who submits a written document for exemption from immunization that contains the child's name, the child's date of birth, a statement that the exemption is based upon religious beliefs, and the responsible person's signature is exempt from the immunization requirements in this Article.~~
- F.** ~~If a medical exemption is obtained, a physician shall identify each vaccine that is exempted:~~
1. ~~The physician shall designate the exemption as either permanent or temporary.~~
 2. ~~If designated as a permanent medical exemption, the medical exemption lasts indefinitely.~~
 3. ~~If designated as a temporary medical exemption, a physician shall specify the date of termination of the temporary medical exemption.~~
 - a. ~~A school or child care shall allow a child with a temporary medical exemption to attend school or child care until the exemption terminates.~~
 - b. ~~A school administrator or a child care administrator shall notify the responsible person in writing of the date by which the child is required to complete all immunizations for which the child has a temporary medical exemption.~~
- For a child attending a child care, a responsible person shall submit to the child care a written statement of exemption from immunization on a form provided by the Department that includes:
1. The child's name,
 2. The child's date of birth,
 3. The type of exemption,
 4. The immunizations from which the responsible person is requesting an exemption,
 5. If a medical exemption, whether the medical exemption is permanent or temporary,
 6. If temporary, the date the medical exemption terminates, if applicable,
 7. The responsible person's signature and the date signed, and
 8. The physician's signature and the date signed, if applicable.
- G.** ~~A school administrator or child care administrator shall record an exemption on the child's immunization record.~~
A child care administrator or school administrator shall:
1. Record an exemption on a child's immunization record,
 2. Allow a child with a temporary medical exemption to attend a child care or school until the date the temporary exemption terminates, and
 3. Notify a child's responsible person in writing of the date the child is required to complete all immunizations before the temporary medical exemption terminates.

Table 1. Immunization Requirements for Child Care or School Entry

Age at Entry	Number of Doses of Vaccine Required	Special Notes and Exceptions
<2 months	1 Hep B	(See Note 1)
2 through 3 months	1 DTP or DTaP 1 Polio 1 Hib 1 Hep B	(See Note 1)
4 through 5 months	2 DTP or DTaP 2 Polio 2 Hib 2 Hep B	(See Note 1)
6 through 11 months	3 DTP or DTaP 2 Polio 3 Hib 2 Hep B	(Hib exception - See Note 2 for a child 7 months through 59 months of age.) (See Note 1)

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12 through 14 months	3 DTP or DTaP 3 Polio 1-4 Hib 1 MMR 3 Hep B <u>1 Varicella</u>	(See Note 2) (See Note 3) (See Note 1) <u>(See Note 6)</u>
15 through 59 months	4 DTP or DTaP 3 Polio 1-4 Hib 1-2 MMR 3 Hep B <u>1 Varicella</u>	(See Note 2) (See Note 3) (See Note 1) <u>(See Note 6)</u>
2 through 5 years (Only required for Maricopa County child care)	2 Hep A	(See Note 4)
Kindergarten or 1st grade entry 4 through 6 years	5 DTP or DTaP 4 Polio 2 MMR 3 Hep B <u>1 Varicella</u>	Exception - A 5th dose is not required if the 4th dose of diphtheria-tetanus containing vaccine was received after the 4th birthday. Exception - A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 3) A child entering school shall receive a 2nd dose, 1 month or more after the date of the 1st dose. <u>(See Note 6)</u>
7 years or older	5 DTP, DTaP, or any combination of DTP and Td 4 Polio 1-2 MMR Hep B <u>1 Varicella</u>	Exception - A 5th dose is not required if the 4th dose of diphtheria-tetanus containing vaccine was received after the 4th birthday. Exception - If started on or after the 7th birthday, a minimum of 3 doses of a tetanus-diphtheria containing vaccine is required. A child shall receive a Td dose if 10 years or more have passed since the date of the last dose of tetanus-diphtheria containing vaccine. Exception - A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 5) (See Note 3) A child entering school shall receive the Hep B series according to Note 1. <u>(See Note 6)</u>

1. A child shall receive the 1st dose of Hep B according to R9-6-702(C), or no later than 15 days following child care entry. A child shall receive the 2nd dose of Hep B 4 weeks or more after the date of the 1st dose. A child who is 6 months of age or older shall receive the 3rd dose 2-5 months after the date of the 2nd dose and 4 months or more after the date of the 1st dose. For a child 11-15 years of age who receives the optional Merck Recombivax HB Adult Formulation vaccine, only 2 doses are required 4 or more months apart.
2. The recommended schedule for 4 dose Hib vaccine is 2, 4, and 6 months of age with a booster dose at 12-15 months of

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age. The optimal schedule for 3 dose Hib vaccine is 2 and 4 months of age with a booster dose at 12 -15 months of age. There shall be a minimum interval of 4 weeks between each of the first 3 doses. A child shall receive a booster dose no earlier than 12 months of age and no earlier than 8 weeks after the previous dose. A child who starts the Hib series after 7 months of age may be required to complete a full 3 or 4 dose series. A child who starts Hib at 15 months of age or older shall receive 1 dose at 15-59 months of age.

3. A child who is 12 months of age or older, shall receive measles, mumps, and rubella vaccines as individual antigens or as a combined MMR vaccine. A child shall receive the 1st dose of MMR before school entry, or no later than 15 days following child care entry. A child who is 4 years of age or older and who is entering school shall receive a 2nd dose of MMR according to R9-6-702(B), and 1 month or more after the date of the 1st dose.
4. A child who is 2 through 5 years of age shall receive the 1st dose of hepatitis A vaccine no later than 15 days following child care entry in Maricopa County. A child shall receive a 2nd dose 6 months following the date of the 1st dose.
5. Polio vaccine is not required for individuals 18 years of age or older.
6. A child shall receive the VAR according to the schedule in R9-6-702(D) no later than 15 days following child care entry.

Table 2. Catch-up Immunization Schedule for Child Care or School Entry

Vaccine	Dose	Time Intervals, Special Notes, and Exceptions
1. Diphtheria, Tetanus, and Pertussis a. For a Child Younger Than 7 Years of Age: DTP or any combination of DTP or DTaP	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	4th	If 6 months or more have passed since the date of the 3rd dose, a child shall receive the 4th dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	5th or more	A child shall receive a 5th dose before continued attendance at school, or no later than 15 days following child care entry. Exception - A 5th dose is not required if the child received the 4th dose after the child's 4th birthday.
b. For a Child 7 Years of Age and Older: Tetanus and Diphtheria containing vaccine (Td) (Pertussis not indicated)	1st	A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry.
2. Polio	1st	(See Note 1 below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.

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	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, the child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry.
	4th	If 8 weeks or more have passed since the date of the 3rd dose, the child shall receive the 4th dose before school entry. Exception - A 4th dose is not required if the 3rd dose was received after the 4th birthday.
3. MMR – Measles, Mumps, Rubella	1st	A child who is 12 months of age or older shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	(See Note 3 below.) If 1 month or more has passed since the date of the 1st dose, a child who is 4 years of age or older shall receive the 2nd dose before school entry.
4. Hib – <i>Haemophilus influenzae</i> type b (Not required for individuals aged 5 years of age and older.)	1st through 4th	A child who is younger than 5 years of age shall receive a dose no later than 15 days following child care entry. (See Note 2 below.)
5. Hep B – Hepatitis B	1st	(See Note 4 below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 2 months or more have passed since the date of the 2nd dose, and 4 months or more have passed since the date of the 1st dose and the child is at least 6 months of age, a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry. Exception - A child who is 11 through 15 years of age who is receiving the Merck Recombivax HB Adult Formulation vaccine is not required to receive a 3rd dose.
6. Hep A – Hepatitis A Only required for Maricopa County child care	1st	A child who is 24 through 71 months of age shall receive the 1st dose no later than 15 days following child care entry.
	2nd	If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days following child care entry.

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<u>7. Varicella</u>	<u>1st</u>	(See Note 5 below.) <u>A child who is 12 months of age through 12 years shall receive one dose before school entry, or no later than 15 days following child care entry.</u>
	<u>2nd</u>	<u>If one month or more has passed since the date of the first dose, a child who is 13 years of age or older shall receive a second dose.</u>

1. Polio vaccine is not required for individuals 18 years of age or older.
2. A child who begins the Hib series at 7 months of age or older shall receive Hib according to the following schedule:

Current Age (months)	Prior Immunization History	Recommended Regimen
7-11	1 dose	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
7-11	2 doses	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
12-14	1 dose before 12 months	2 doses administered at least 2 months apart
12-14	2 doses before 12 months	1 dose
15-59	Any incomplete schedule	1 dose

3. According to the schedule in R9-6-702(B), a child shall receive the 2nd MMR before entering school.
4. According to the schedule in R9-6-702(B), a child shall receive the hepatitis B series before entering school or no later than 15 days following child care entry.
5. A child shall receive the VAR according to the schedule in R9-6-702(D) no later than 15 days following child care entry.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

**CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION**

[R05-209]

PREAMBLE

- | | |
|--|--|
| <ol style="list-style-type: none"> <u>1. Sections Affected</u>
 R15-5-2302
 R15-5-2306
 R15-5-2307
 R15-5-2308 | <u>Rulemaking Action</u>
Amend
Repeal
Repeal
Repeal |
|--|--|
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 42-1005
Implementing statutes: A.R.S. §§ 42-5155 and 42-5159
 - 3. The effective date of the rules:**
August 6, 2005
 - 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 4272, October 22, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 4562, November 12, 2004

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5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Hsin Pai, Tax Analyst
Address: Tax Policy and Research Division
Arizona Department of Revenue
1600 W. Monroe, Room 810
Phoenix, AZ 85007
Telephone: (602) 716-6851
Fax: (602) 716-7995
E-mail: hpai@azdor.gov

Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at www.azdor.gov/tra/draftdoc.htm.

6. An explanation of the rule, including the agency's reason for initiating the rule:

The Department initiated the rulemaking to more clearly explain the imposition of Arizona use tax on purchasers for out-of-state purchases used, stored, or consumed in this state on which Arizona transaction privilege tax has not already been imposed. This rulemaking also eliminates language in the current rules that may be confusing and misleading to taxpayers, as it no longer reflects the Department's position in light of superseding case law from two Arizona Court of Appeals opinions: *Arizona Department of Revenue v. Care Computer Systems, Inc.*, 4 P.3d 469 (Ariz. Ct. App. 2000), and *Arizona Department of Revenue v. O'Connor, Cavanagh, Anderson, Killingsworth & Beshears, P.A.*, 963 P.2d 279 (Ariz. Ct. App. 1997). The fact-intensive analyses used by the Court of Appeals to determine whether a transaction is subject to transaction privilege tax or use tax forecloses the simplistic approach that can be inferred from the rules that this rulemaking repeals. The Department has likewise repealed an inconsistent *Arizona Transaction Privilege Tax Ruling* addressing the issue of purchases from out-of-state vendors, TPR 94-12, and is currently finalizing a new tax ruling with assistance from interested and affected members of the general public.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review any study relevant to the rules.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

There should be no significant economic impact to Arizona businesses or consumers arising from the rulemaking. The new rulemaking reflects already-existing Department policy and interpretation. The Department expects that the benefits of the amended rules to the public and the agency from achieving a better understanding of the use tax will be greater than the costs.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The final rules reflect two nonsubstantial changes from the proposed rules:

1. The first sentence of proposed R15-5-2302(A) read, "A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that has purchased tangible personal property from an out-of-state vendor if the vendor's gross receipts from the sale *are* not already *subject to* Arizona transaction privilege tax" (emphasis added). The sentence in the final rules reads, "A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that has purchased tangible personal property from an out-of-state vendor if the vendor's gross receipts from the sale *have* not already *been included in the measure of* Arizona transaction privilege tax" (emphasis added). The Department is making the changes to ensure further precision in explaining the scope of transactions subject to Arizona use tax and are nonsubstantial in nature.
2. Based on a comment received on the rule (see item 11 *infra*), the Department amended the first sentence of proposed R15-5-2302(C), which read, "If a purchaser has paid to an out-of-state vendor the excise, privilege, sales, or other similar tax of another state on a purchase of tangible personal property that is subject to Arizona use tax, the amount of tax paid to the other state may be applied against the purchaser's use tax liability." The sentence now reads, "If a purchaser has paid to an out-of-state vendor *a tax* of another state *levied on the sale or use of* tangible personal property . . ." (emphasis added). The changes are nonsubstantial in nature, as the statement provides the same principle regarding the use tax treatment of taxes paid to other states, but uses terminology that avoids the unintended consequence of expanding the A.R.S. § 42-5159(A)(2) exemption to allow taxpayers to take taxes other than excise taxes as credits against Arizona use tax.

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The Department made other minor technical and grammatical changes at the suggestion of G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department received one comment on the rulemaking, advising the Department to revise the first sentence of proposed R15-5-2302(C). The concern expressed was that a taxpayer could read the language as allowing it to take severance, income, or another form of taxes not intended to act as a credit against Arizona use tax based on the argument that it constituted “excise, privilege, sales, or other similar tax . . . on a purchase of tangible personal property.” Based on the comment, the Department made a nonsubstantial change to the sentence (see item 10 *supra* for discussion).

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION**

ARTICLE 23. USE TAX

Section

- R15-5-2302. General
R15-5-2306. ~~Distinction Between Sales Tax and Use Tax~~ Repealed
R15-5-2307. ~~When a Transaction is Subject to the Sales Tax~~ Repealed
R15-5-2308. ~~When a Transaction is Subject to the Use Tax~~ Repealed

ARTICLE 23. USE TAX

R15-5-2302. General

- ~~A.~~ In this Section, “retailer” and “utility business” have the same meanings as prescribed in A.R.S. § 42-5151.
~~A.B.~~ The Use Tax Act A.R.S. § 42-5155 imposes Arizona use tax upon the buyer a tax on the purchase of a purchaser that purchases tangible personal property from an out-of-state vendor retailer or utility business if the retailer or utility business’s gross receipts from the sale have not already been included in the measure of Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona use tax are complementary taxes, only one of the taxes is imposed on a given transaction.
~~B.C.~~ The Arizona use tax generally applies to the use, storage, or consumption in this state of items tangible personal property purchased from an out-of-state suppliers retailer or utility business.
~~C.D.~~ In cases where the buyer If a purchaser has paid Sales Tax pays to an out-of-state seller retailer or utility business a tax of another state levied on the sale or use of tangible personal property that is subject to Arizona use tax, the purchaser may apply the amount of tax paid to the other state may be applied against his the purchaser’s Arizona Use Tax use tax liability.
E. A purchaser that purchases tangible personal property exempt from tax because the property is purchased for resale in the ordinary course of business but subsequently uses or consumes the tangible personal property shall pay Arizona use tax.

R15-5-2306. ~~Distinction Between Sales Tax and Use Tax~~ Repealed

- ~~A.~~ The Sales Tax is imposed on sales made by vendors located within Arizona, while the Use Tax is levied on purchases from out-of-state vendors.
~~B.~~ Since the Sales Tax and Use Tax are complementary taxes, only one of the taxes can be applied to a given transaction.

R15-5-2307. ~~When a Transaction is Subject to the Sales Tax~~ Repealed

~~Sales made by vendors maintaining a place of business within Arizona are subject to the Sales Tax. Sellers operating from a commercial location or point of distribution, soliciting from a public place of business, or buying and selling articles on their own account within the state are deemed to be in business in Arizona.~~

~~For example, an office equipment dealer maintains a sales office in Arizona, solicits business from customers in Arizona, and~~

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~~orders the equipment from its home office out of state. Although the seller maintains no stock of inventory in Arizona and the products are shipped directly to the purchaser, he is nevertheless considered to be engaging in business within the state for purposes of this regulation. Such sales are taxable under the Sales Tax statutes.~~

R15-5-2308. ~~When a Transaction is Subject to the Use Tax~~ Repealed

~~Purchases made from vendors not maintaining a place of business in this state to Arizona customers are subject to the Use Tax. For example, purchases from an out of state vendor selling by mail order to Arizona residents are subject to the Use Tax.~~